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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5580-N-03]

Department of Housing and Urban Development Summary of Public Comments, Response to Public Comments, and Final 2012-2015 Environmental Justice Strategy

AGENCY: Office of Sustainable Housing and Communities, HUD.

ACTION: Notice.

SUMMARY: On September 30, 2011, HUD posted its draft environmental justice strategy and requested public comment. This notice summarizes public comments submitted in response to HUD's draft environmental justice strategy, offers response to comments, and announces the release of HUD's final Environmental Justice Strategy. The changes in the final strategy reflect HUD's consideration of the public comments received and HUD's effort to improve and expand its commitment to avoiding disproportionately high and adverse human health or environmental effects on minority and low-income populations, as well as creating geographies of opportunity. The final strategy is posted at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/sustainable_housing_communities.

FOR FURTHER INFORMATION CONTACT: Sunaree Marshall, Office of Sustainable Housing and Communities, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10180, Washington, DC 20410, telephone number 202-402-6011 (this is not a toll-free number). Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, 2011, HUD published for public comment a draft Environmental Justice Strategy for 2012 through 2015. HUD is committed to meeting the goals of Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” which states that each federal agency, with the law as its guide, should make environmental justice part of its mission. In this regard, HUD has developed its Environmental Justice Strategy (EJ Strategy). HUD’s EJ Strategy is a four-year plan to address environmental justice concerns and increase access to environmental benefits through HUD policies, programs, and activities.

The release of HUD’s EJ Strategy is part of the latest step in a larger Administration-wide effort to ensure strong protection from environmental and health hazards for all. In August 2011, federal agencies signed the “Memorandum of Understanding on Environmental Justice and Executive Order 12898” (EJ MOU), which committed each agency to, among other things, finalizing an EJ strategy and releasing annual implementation reports. Links to the other federal EJ Strategies are available on the Environmental Justice Interagency Workgroup (IWG) webpage at <http://www.epa.gov/environmentaljustice/interagency/index.html>.

Now that its strategy is final, HUD will continue to work with the IWG and other federal partners to engage stakeholders through outreach, education, and stakeholder events and respond to public comments through its annual implementation reports.

II. Final Strategy: Changes to the September 30, 2011 Draft EJ Strategy

This final strategy follows publication of the September 30, 2011 draft strategy and takes into consideration the public comments received. The public comment period on the draft

strategy closed on November 23, 2011, after HUD extended the deadline from the original November 14, 2011 date. HUD received relevant input from a total of 36 commenters representing a wide variety of stakeholders, some of whom submitted multiple comments, in response to the draft strategy. Comments were submitted by private citizens, local, regional, and state agencies, and advocacy groups. The comments were on a wide variety of issues from many different sections of the draft strategy.

III. Discussion of Public Comments Received on the September 30, 2011 Draft Strategy

This section presents a summary of the significant issues raised by the public comments in response to the September 30, 2011 Draft EJ Strategy and HUD's responses to these issues.

Comment: HUD should expand the definition of "Colonias" to include rural communities with similar characteristics but not located on the southern border of the U.S. to increase assistance to farmworker and rural communities.

Response: For the purposes of the colonia set-aside in the CDBG program, HUD must follow the requirements of §916(e)(1) of the 1990 Cranston Gonzalez National Affordable Housing Act which defines colonia as: "any identifiable community ... in the State of Arizona, California, New Mexico, or Texas ... in the United States-Mexico border region ... [and] is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe and sanitary housing." Because the geography of the colonia is defined in statute, expanding the definition would require a statutory change by Congress.

Comment: HUD should include clear and specific requirements and incentives for energy and water efficiency in all HUD housing rehabilitation and construction programs.

Response: HUD values energy efficiency and is committed to efficient, green, and healthy homes. Subgoal 4B of HUD's Strategic Plan for FY 2010-2015 calls on HUD to "support and promote an energy-efficient, green, and healthy housing market by retrofitting existing housing, supporting energy-efficient new construction, improving home energy labeling, and promoting financing products that reduce the carbon footprint of non-HUD-supported residential buildings." Furthermore, for the past several Fiscal Years, HUD has offered policy priority points to applicants that plan to use HUD discretionary grant program funding to build or rehabilitate to a recognized green building rating standard (see section I.B.2. of HUD's Fiscal Year (FY) 2012 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY2012 NOFAs for Discretionary Programs).

Comment: HUD should add to selection criteria of all NOFAs a discussion of the impact a project would have on homeless populations and planned mitigation strategies, where appropriate.

Response: One of the goals outlined in HUD's Strategic Plan for FY 2010-2015 is ending homelessness by reducing the number of homeless families, chronically homeless individuals, and homeless veterans. To achieve this goal, HUD has partnered with local, state, and Federal organizations, including the U.S. Interagency Council on Homelessness, to deploy evidence-based interventions, such as supportive housing, housing first, homelessness prevention, and rapid rehousing, to more effectively and efficiently use the nation's limited resources to bring an end to homelessness. While a criterion described in the comment is not included in all of the NOFAs for HUD's discretionary programs, HUD is working proactively to end homelessness through strategies such as: providing additional individuals and families with rental housing subsidies; increasing service-enriched housing; working with state and local

governments to expand rental assistance and prevent homelessness; and improving access to HUD-funded housing assistance by eliminating administrative barriers and encouraging prioritization of households most at risk for homelessness.

Comment: Two commenters noted that the strategy was broad in scope and lacked benchmarks and goals that would quantify performance and aid in implementation.

Response: HUD is eager to make headway on the myriad department-wide and program office-specific policy priorities outlined in the EJ Strategy in the pursuit of environmental justice – defined by HUD as equal access to safe and healthy housing for all Americans, mitigating risks to communities in disaster-prone areas, access to affordable, quality housing free of hazards to residents' health, and working to achieve inclusive, sustainable communities free from discrimination. The next step in the process is finalizing the EJ Strategy to comply with Executive Order 12898. This strategy lays out the general principles of HUD's approach to Environmental Justice but is not intended to be HUD's last word on the subject. Beginning in 2012, HUD will provide an annual report on progress in carrying out this strategy and Executive Order 12898, with meaningful opportunities for public comment and recommendations.

Comment: Multiple commenters wanted to know more about the EJ training, progress reports, potential new reporting requirements, and policies that were mentioned in the draft EJ Strategy. One commenter further noted that HUD should expand the training materials it is planning to provide to include seminars, webinars, handouts, and in-person training.

Response: Finalizing and releasing the 2012-2015 EJ Strategy is the first step towards working towards the priorities outlined in the Strategy, including offering EJ training and reporting HUD's annual progress. Now that HUD has finalized its Strategy, HUD's EJ Working Group and other staff will continue to work to develop training materials, as well as a timeline

for progress reports, and will make details available to the public. HUD's website will continue to be the best place to find information on training, progress reports, and any relevant guidance.

Comment: HUD should issue the National Environmental Policy Act (NEPA) -related guidance on how it will consider environmental justice impacts of major federal actions affecting the environment.

Response: In Section A.3 of the Strategy, HUD commits to reviewing and evaluating environmental review requirements and delivering special training materials to HUD and grantee staff on environmental justice.

Comment: HUD needs to change the definition of what constitutes affordable housing to include energy and water efficiency standards.

Response: HUD understands that both transportation and utility costs have a significant impact on the overall affordability of housing for individuals. Several initiatives are underway to improve our understanding of the combined cost of housing, energy, and transportation for American households. HUD took unprecedented actions in FY2010 and FY2011 to increase energy efficiency in affordable housing. Through an interagency Rental Policy Working Group, HUD, the United States Department of Agriculture (USDA), and other federal agencies adopted a framework for common energy efficiency standards in federally-assisted affordable rental housing, as published on December 31, 2011 in the Federal Alignment Report (http://www.huduser.org/portal/aff_rental_hsg/RPWG_Conceptual_Proposals_Fall_2011.pdf).

In addition, as part of a joint effort with the Department of Energy (DOE), HUD established and exceeded a two-year goal for energy efficient, healthy retrofits and new construction of affordable units. Through HUD's core programs, HUD has expanded financing, increased technical assistance, and strengthened basic energy requirements to advance greater

energy efficiency. Many of HUD's competitive grant programs provide bonus points for projects that comply with standards including EnergyStar, WaterSense, and Leadership in Energy and Environmental Design (LEED). The competitive nature of these programs often ensures that only proposals that achieve these points are funded. HUD also acknowledges successful sustainable projects of various types through national award programs as an additional incentive to achieve these and other goals. Through a partnership with DOE to break down interagency barriers, more than 1.5 million units of HUD-assisted housing have increased access to funding under DOE's Weatherization Assistance Program.

In FY2011, HUD continued existing innovative energy-efficiency financing programs such as the Mark-to-Market green initiative, and launched new financing programs such as the PowerSaver pilot program to provide FHA-insured loans for homeowners to invest in home energy improvements and the Fannie Mae-FHA Green Refinance Plus that allows for refinancing of existing affordable multifamily rental properties into new mortgages that include funds for energy saving improvements. HUD is also working to improve its data collection and reporting systems on energy efficiency. For example, HUD strengthened the Integrated Disbursement & Information System (IDIS) reporting for Recovery Act reporting through HOME, the Community Development Block Grant Program (CDBG), and the Neighborhood Stabilization Program (NSP), as well as energy improvements funded through the American Recovery and Reinvestment Act (Pub. L. 111-5) (Recovery Act) Capital Fund in public housing. The Administration's FY2013 Budget proposal for the Office of Sustainable Housing and Communities builds on this progress and requests funding to support energy efficiency and green building initiatives which will allow HUD to further develop uniform energy efficiency guidelines for HUD-assisted properties.

Comment: HUD should set standards for making spatially referenced housing information available to local agencies. (Example: assigning multi-family units to their actual location versus the address of a management office.) Also, HUD could provide funding and/or leadership in creating agreements with private vendors (like RealtyTrac) to make standardized, geo-coded foreclosure information accessible to local jurisdictions and to the public.

Response: HUD is currently investing in a project called Enterprise Geospatial Services that includes establishing geocoding standards for the agency and conducting an agency-wide geospatial needs assessment. The geospatial needs assessment will include a summation of the agency's geospatial environment as is and recommendations for an enterprise geospatial architecture for HUD. In recent years, HUD has made great strides toward expanding our geospatial mapping capacity and tools for the public. Thirteen mapping tools for various HUD programs are available at: <http://egis.hud.gov>. This page will soon be rebuilt using portal technology that will allow users to search or browse for data, services, and applications. In addition to supporting these specific applications, HUD is also designing a public map services program that will make core data sets available to Federal and local partners and the general public. HUD projects that these map services will be available in starting in 2012 in a variety of standard formats, such as WMS, REST, and KML. At this point, HUD is unable to reach a licensing agreement that would allow the agency to make foreclosure data publicly available that would not be prohibitively expensive.

Comment: With close to half of the Tribes recognized by the United States of America located in Alaska, and the known communication issues between many of these Villages and Federal Agencies, HUD is not doing enough to make it possible for the Alaska Tribes to participate in a meaningful way. In addition, HUD is not doing enough to stop pollution from

entering Alaska's natural environment, which has adverse effects for many indigenous peoples. Finally, with almost half the federally recognized tribes located in Alaska, HUD should pursue budget equity with the funds designated as tribal funds. The majority of funds should be directed to Alaska's Tribes.

Response: HUD and its Office of Native American Programs recognize and support the sovereignty of federally recognized Tribes through the unique government-to-government relationship formally established between the Tribes and the United States government. This relationship is reflected in HUD's Government-to-Government Tribal Consultation Policy which was established pursuant to Executive Order 13175 which required federal agencies to: 1) establish regular and meaningful consultation and collaboration with Indian Tribal officials in the development of federal policies that have tribal implications; 2) strengthen the United States government-to-government relationships with Indian Tribes; and 3) reduce the imposition of unfunded mandates upon Indian Tribes. HUD's Government-to-Government Tribal Consultation Policy applies to all HUD programs that have substantial direct effects on federally recognized Indian Tribal governments.

Regarding environmental impacts, recipients of HUD grant funds, including the Office of Native American Programs' NAHASDA Indian Housing Block Grant and Indian Community Development Block Grant programs, must meet the statutory and regulatory provisions of NEPA and other environmental laws and authorities. HUD environmental regulations establish a policy that properties proposed for use in HUD programs be free of hazardous materials and contamination that could affect the health and safety of occupants or conflict with the intended use of the property.

Finally, regarding the allocation of funds to federally recognized Tribes, HUD's Government-to-Government Tribal Consultation Policy clearly establishes the methodologies HUD will follow to affect meaningful Tribal Consultation and Collaboration at the local, regional, and national levels. Consistent with HUD's Tribal Consultation Policy and in accordance with the Native American Housing Assistance and Self-Determination Act of 1996, HUD has established a number of negotiated rulemaking committees in the past to develop and regularly review program regulations governing the allocation of Indian Housing Block Grant (IHBG) to Indian tribes. In doing so, HUD ensured that each committee, as a whole, reflected a geographically diverse cross-section of small, medium, and large Indian tribes, including representatives of Alaska tribes. All decisions made by these committees have historically been made on a consensus basis. HUD intends to establish negotiated rulemaking committees in the future to review the method by which IHBG funds are allocated to Indian tribes and remains committed to ensuring continued tribal participation. This process has been effective in the past in ensuring the fair and equitable distribution of IHBG grant funds among all program recipients.

Comment: HUD should apply a public health framework to all offices and programs.

Response: HUD knows that stable, healthy housing is inextricably tied to individual health and has made improving health outcomes a priority in its Strategic Plan. Improving health outcomes starts by increasing health knowledge and access to health services. Strategies HUD is committed to pursuing in 2010-2015 include: increasing information about and access to health services, including veterans' health benefits, through partnerships with health organizations and healthcare delivery systems; increasing coordination of HUD programs with healthcare resources administered by other federal, state, and local programs; providing physical space to co-locate healthcare and wellness services with housing (for example, onsite health clinics); and promoting

housing management practices that protect the health of residents (for example, smoking cessation, pest management, and green cleaning).

HUD's Office of Healthy Homes and Lead Hazard Control administers lead hazard and healthy homes programs, enforces lead paint regulations, and sets policies to reduce health and safety hazards in housing. Its comprehensive approach to healthy homes takes into account a variety of hazards in the home that can affect health, especially the presence of lead; these hazards often disproportionately impact EJ communities.

Health is embedded in many other HUD programs as well. For instance, a goal of the Choice Neighborhoods program is to convert some of the worst of the nation's public housing into higher-quality, mixed-income, mixed-tenure developments. The vision is to help communities transform into walkable neighborhoods with amenities and health services that allow residents to lead healthier lives. The Housing Choice Voucher program allows recipients of HUD assistance the mobility and freedom to choose the neighborhood they live in, allowing some people to leave neighborhoods that were less healthy, from a stress, safety, or walkability standpoint, to one that is more healthy.

Comment: HUD should make public safety a priority in all its programs, as it does in the Choice Neighborhoods program.

Response: Public safety is a key priority for HUD and a component of its Strategic Plan (Subgoal 3E). HUD knows that safety and the perception of safety are necessary factors for quality of life and that enhancing physical safety and reducing crime are essential to improving health, education, and economic outcomes. HUD's Strategic Plan describes HUD's strategies for improving actual safety and perceptions of safety, including: encouraging housing managers to use incentives to promote safety awareness and crime prevention programs; maintaining or

improving the physical environment and design of HUD-assisted residences, giving attention to physical safety and crime prevention; and promoting a high level of coordination with law enforcement agencies to prevent and reduce crime. The new Choice Neighborhoods program is one example of how HUD is beginning to realize this strategic goal.

Comment: The Fair Housing Equity Assessment component of the Sustainable Communities grant programs should require mapping health variables to evaluate the impact of healthy and unhealthy community assets.

Response: The Fair Housing Equity Assessment requirement for HUD Sustainable Communities Regional Planning Grant Program grantees includes an identification and assessment of segregated areas and areas of increasing diversity and/or racial/ethnic integration, racially/ethnically concentrated areas of poverty, access to existing areas of high opportunity, major public investments, and fair housing issues, services, and activities. During the course of their work, Regional Planning grantees are required to engage stakeholders and create planning priorities around positive community health outcomes.

Comment: HUD should prioritize housing mobility programs to work toward the goal of environmental justice.

Response: HUD is committed to providing choices and mobility to residents of public and assisted housing. Through HUD's Transforming Rental Assistance Initiative, HUD will work with partners at the state and local levels to regionalize rental assistance administration and to offer residents the option to receive tenant-based Section 8 vouchers, giving families access to a wider range of choices and opportunities when it comes to choosing a place to live.

Comment: HUD should use its Federal Advisory Committee Act (FACA) authority to create a National Equitable Development Advisory Council.

Response: HUD is exploring the most effective ways to bring Federal, state, and local partners and stakeholder expertise to bear on its Environmental Justice work. Establishing an Advisory Council is an option that HUD will look into going forward.

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